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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/966,686

10/01/2001

Michael Austin

S63.2-10142

1843

490

7590

08/04/2003

VIDAS, ARRETT & STEINKRAUS, P.A.  
6109 BLUE CIRCLE DRIVE  
SUITE 2000  
MINNETONKA, MN 55343-9185

EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 08/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/966,686

Applicant(s)

AUSTIN, MICHAEL

Examiner

Marc Jimenez

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 46-71 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 46-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 46, 47, 50, 53-56, 59, 62-64, 67, 70, and 71** are rejected under 35 U.S.C. 102(e) as being anticipated by Verbeek (5,951,540).

Verbeek teaches a method of reducing a stent in cross-section comprising the steps of: providing a crimper (for example fig. 3 or 10) having a plurality of closely spaced movable dies **150a-f** defining an aperture **122**, the dies **150a-f** arranged to form an iris, placing a stent **602** disposed about a catheter **604** within the aperture **122**, and crimping the stent **602** onto the catheter **604** by reducing the size of the aperture (for example, see how the aperture **220** shaped like an iris reduces in size from fig. 5 to fig. 6).

Regarding claims 47, 56, and 64, the stent is disposed about a medical balloon, the medical balloon disposed about the catheter (col. 1, lines 66-67).

Regarding claims 50, 59, and 67, the dies are wedge shaped (see for example fig. 10).

Regarding claim 53 and 70, the dies **150a-f** are moved inward during the moving step.

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Regarding claims 54, 62, and 71, the entire stent is placed in the dies (see for example fig.10).

Regarding claim 55, the dies overlap (see for example fig. 3 and fig. 10).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 48, 49, 57, 65, and 66** are rejected under 35 U.S.C. 103(a) as being unpatentable over Verbeek in view of Langstedt (5,935,476).

Verbeek teaches the invention cited with the exception of cooling the dies below ambient temperature.

Langstedt teaches cooling dies below ambient temperature (col. 2, lines 57-56).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Verbeek with cooling the dies below ambient temperature, in light of the teachings of Langstedt, in order to facilitate rapid cooling (col. 1, line 16 of Langstedt).

Regarding claims 49 and 66, Verbeek/Langstedt teach the invention cited with the exception of the stent being made of nitinol. Official notice is taken that it is well known in the art to use nitinol stent material because of its strength and corrosion resistant properties.

5. **Claims 51, 52, 58, 60, 61, 68, and 69** are rejected under 35 U.S.C. 103(a) as being unpatentable over Verbeek.

Regarding claims 51, 52, 60, 61, 68, and 69 Verbeek teaches the invention cited with the exception of having either at least 8 dies or at least 16 dies.

At the time of the invention it would have been an obvious matter of design choice to a person of ordinary skill in the art to have provided at least 8 or at least 16 dies because applicant has not disclosed that the claimed number of dies provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well with either the number of dies taught by Verbeek or the claimed number of dies because either number of dies perform the same function of crimping equally as well.

Regarding claim 58, Verbeek teaches the invention cited with the exception of the stent being made of nitinol. Official notice is taken that it is well known in the art to use nitinol stent material because of its strength and corrosion resistant properties.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 46-71 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Interviews After Final***

8. Applicant note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing) to clarify issues for appeal requiring only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations will be denied. See MPEP 714.13 and 713.09.

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***Contact Information***

9. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to

[CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is **703-306-5965**. The examiner can normally be reached on **Monday-Friday, between 5:30 am- 2:00 pm**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 308-6789 or (888) 786-0101
Assignment Branch	(703) 308-9723
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335

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**MJ**  
July 30, 2003

  
**GREGORY VIDOVICH**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**